

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL FINANCE CORPORATION,
not in its individual capacity but solely as the
Trustee for the IFC-Netherlands Carbon Facility,

07 Civ. 5451 (SHS) (ECF)

Plaintiff,

-against-

KORAT WASTE TO ENERGY CO. LTD.,
(a/k/a KHORAT WASTE TO ENERGY CO.),

Defendant.

DECLARATION OF FRANCIS A. VASQUEZ, JR.

I, Francis A. Vasquez, Jr., declare as follows:

1. I am a member of the firm of White & Case LLP in Washington, D.C. I am a member of the bar of this Court. I make this declaration based on my personal knowledge.
2. On March 13, 2008, International Finance Corporation (IFC) noticed the deposition of Granville Smith, setting the date for March 27, 2008. *See* Notice of Deposition (attached hereto as Exhibit 1). Based on discussions with counsel for Korat Waste to Energy Co. Ltd. ("Korat"), the deposition was postponed until April 14, 2008. *See* Notice of Deposition (attached hereto as Exhibit 2). Subsequently, Korat asked that Mr. Smith's deposition be adjourned and stated that it would provide IFC with alternative dates for the deposition. On Wednesday, April 23, 2008, Korat informed IFC that Mr. Smith would not be available for a deposition until July at the earliest.
3. Mr. Smith has already submitted two declarations in this matter, which are attached hereto as Exhibits 3 and 4. In his declarations, Mr. Smith contests many of the facts alleged in the Complaint and offers his own interpretation of the Letter of Intent. *See* Declaration of Granville Smith dated April 15, 2008 ¶¶ 3, 4, 6, 8 (attached hereto as Exhibit 4). IFC would like to examine him on those issues, among others.
4. On March 13, 2008, IFC noticed the deposition of Ken Locklin, setting the date for March 26, 2008. *See* Notice of Deposition (attached hereto as Exhibit 5). Based on discussions with counsel for Korat, the deposition was postponed until April 17, 2008. *See* Notice of Deposition (attached hereto as Exhibit 6). Subsequently, Korat asked that Mr. Locklin's deposition be adjourned and stated that it would provide IFC with alternative dates for the deposition. On Wednesday, April 23, 2008, Korat informed IFC that Mr. Locklin would not be available for a deposition until July at the earliest.

5. Korat has not provided dates of availability for the other witnesses IFC seeks to depose, which include David Donnelly, Steve Gomborg, Justin Guest, Simon Shaw, and EEA Fund Management Ltd. The parties currently have a dispute as to the location of these depositions that IFC will ask the court to resolve.
6. While the parties have exchanged documents and interrogatories, there has been no discovery in this case as to the intention of the parties when drafting the May 2004 Letter of Intent.
7. After the Court's ruling on March 27, 2008, holding that IFC was only entitled to reliance damages under Count One, IFC began working to determine the categories of expenses incurred as a result of Korat's bad faith Emission Reduction Purchase Agreement ("ERPA") negotiations. Based on New York law, the following categories of expenses have been identified to date:
 - a. IFC staff salaries for drafting the ERPA;
 - b. Expenses for retaining outside English counsel for a separate review and revision of the ERPA;
 - c. Expenses for retaining outside Canadian counsel to assist in drafting, redrafting, and negotiating the ERPA;
 - d. IFC staff's wasted time in negotiating the ERPA;
 - e. IFC's overhead expenses; and
 - f. IFC's lost opportunity costs.
8. Attached hereto as Exhibit 1 is a true and correct copy of the Notice of Deposition for Granville Smith dated March 13, 2008.
9. Attached hereto as Exhibit 2 is a true and correct copy of the Notice of Deposition for Granville Smith dated March 26, 2008.
10. Attached hereto as Exhibit 3 is a true and correct copy of the Declaration of Granville Smith dated April 9, 2008.
11. Attached hereto as Exhibit 4 is a true and correct copy of the Declaration of Granville Smith dated April 15, 2008.
12. Attached hereto as Exhibit 5 is a true and correct copy of the Notice of Deposition for Ken Locklin Smith dated March 13, 2008.
13. Attached hereto as Exhibit 6 is a true and correct copy of the Notice of Deposition for Ken Locklin dated March 26, 2008.

14. Attached hereto as Exhibit 7 is a true and correct copy of the transcript from the March 27, 2008 Hearing.
15. Attached hereto as Exhibit 8 is a true and correct copy of the May 2004 Letter of Intent entered into between IFC and Korat.
16. Attached hereto as Exhibit 9 is a true and correct copy of the Letter from David Donnelly to Vikram Widge dated March 2, 2007.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 24, 2008
Washington, D.C.

/s/ Francis A. Vasquez, Jr.
Francis A. Vasquez, Jr.